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Jul 26 2010 08:30:03 WS# 20
OSNUM: 072620101011
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Aetna
151 Farmington Avenue
Hartford, CT 06156

July 20, 2010

Steven B. Kelmar
Senior Vice President
Government Affairs and Public Policy
Law & Regulatory Affairs, RE6A
(860) 273-2708
Fax: (860) 273-8340

The Honorable Kathleen Sebelius
Department of Health and Human Services
Hubert H. Humphrey Building,
Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Re: Coverage for Dependent Children to Age 26

Dear Secretary Sebelius:

On May 10, 2010, the Internal Revenue Service, Department of Labor, and Department of Health and Human Services (the "Departments") jointly released interim final regulations on the dependent children coverage extension requirement included in the Affordable Care Act (ACA). As one of the nation's oldest and largest providers of health care benefits, we understand the importance of extending coverage to dependents under age 26. Aetna particularly appreciates the Departments' efforts to issue these regulations in a timely manner. Aetna is committed to working with the Departments in developing and clarifying the requirements for extending coverage to dependents under age 26 to assure successful implementation. To help in this endeavor, Aetna respectfully offers a request for additional clarification on the following components of the rule.

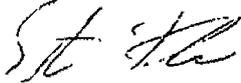
- **Individual Market Premiums:** Most states currently allow individual market premiums to vary based upon the age of the policyholder and dependents. Federal law generally allows this to continue until the individual mandate is implemented in 2014. Aetna requests additional clarification allowing plans to charge different individual market premiums based on dependent age until 2014. Age rating plays an important role in maintaining affordability and a balanced risk pool prior to the 2014 implementation of premium tax credits, reinsurance and other provisions to stabilize the insurance market.
- **Grandchildren:** There are circumstances where Aetna and other insurers extend dependent coverage to grandchildren. Some employers request these benefits. In addition, several states require coverage of grandchildren if they are tax dependents of the policy holder. The federal regulations do not impose coverage of grandchildren on health plans. However, it would be helpful to clarify that if plans do cover grandchildren -- either voluntarily or through state law -- this would not trigger a requirement to cover grandchildren until age 26. Instead, additional conditions such as tax dependency, residency, student status or marital status may be required by the plan.

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- ***Age based benefits:*** It also is common for health plans to vary benefits for specific age cohorts. For example, additional preventive services such as well-baby benefits are only provided to children under two years of age. Restricting benefits for a certain age group based on medical evidence of age-appropriate services assures that patients receive the right care at the right time and do not undergo treatments that are not appropriate for their age. The regulations specify that a plan may not charge an "additional premium surcharge" based on a child's age or limit available benefit options to children based on age. Aetna would appreciate additional clarification on allowing plans to continue to provide different benefits within a plan based on demographic characteristics, such as age, where medically appropriate.

We have attached a draft set of Frequently Asked Questions (FAQs) that would help clarify these issues. Aetna welcomes any thoughts or clarification the Departments can offer in regards to these areas. We look forward to the continued opportunity to share our experiences as a health benefits company. If we can be a resource as the Departments continue to refine their regulations regarding dependent coverage, or if you have questions, please contact me at 860-273-2706.

Sincerely,



Steven B. Kelmar

CC: Jay Angoff
Steve Larsen

DRAFT FAQs ON AGE 26 RULE

Age-Appropriate Benefits

Q. Does the Interim Final Rule's requirement that a health plan not vary terms based on age preclude a plan from covering different age-appropriate benefits within the plan based on age?

A. No. The Interim Final Rule provides that plan terms for dependent children related to eligibility may not vary based on age (except those age 26 or older). Examples in the Interim Final Rule specify that a plan may not charge an additional premium or limit available benefit options to children based on age. The Interim Final Rule would not preclude a group health plan or health insurance issuer from covering benefits within the plan based on age, provided such a limitation otherwise complies with applicable law. For example, a plan or issuer may limit well baby visits to a certain age range. Just because some of these benefits may apply to dependent children does not mean that the plan or issuer would be precluded from setting age range limitations for benefits under the plan.

Coverage of Grandchildren

Q. Both the statute and the Interim Final Rule expressly do not require a health plan to cover grandchildren. Where a plan or issuer does cover a grandchild (either voluntarily or where required by state insurance law), must the plan or issuer cover the grandchild to age 26? May the plan or issuer require additional conditions, such as tax dependency for grandchildren?

A. Generally, a group health plan or health insurance issuer may determine the relationship regarding what type of children will be covered (e.g., natural child, step child). To the extent a plan or issuer covers a child, it must cover the child to age 26 and may not impose additional conditions, such as residency or tax dependency. However, the statute specifically carves out grandchildren from these requirements. This means that even if a plan or issuer chooses to cover grandchildren, it would be permitted to place additional restrictions on the grandchild (where otherwise permitted by law), such as age, residency, or tax dependency.

Age-Banding for All Individuals under Policy

Q. Under the Interim Final Rule, may an individual policy continue to charge different premiums for individuals covered under the policy based on age, where the premium charge is applied uniformly to all participants, not just dependent children?

A. Yes. Beginning for plan years that start on or after January 1, 2014, a health insurance issuer in the individual and small group market will be limited under PHSA § 2701 in what premiums may be charged based on age. However, until that time, a health insurance issuer in the individual market would be permitted to charge different premiums based on age if the plan or issuer applies the same rule uniformly to all individuals under the plan, as otherwise permitted by law. For example, when determining a family's premium, a plan may set different rates for an enrollee, spouse, and their three children, based on their respective ages where there is an

actuarial basis for differentiation, since the application of the charges applies uniformly to each individual. In this example, if the family policy covers a 6-month old, 10-year old, and 24-year old, and actuarial projections showed that a typical 6-month old and 24-year old likely would consume greater benefits, the plan could set a rate for the 6-month old and 24-year old higher than the 10-year old, where otherwise allowed by law, without violating the requirements of the Interim Final Rule.

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